

AMENDED IN SENATE MAY 15, 2012

AMENDED IN SENATE MAY 8, 2012

AMENDED IN SENATE APRIL 17, 2012

AMENDED IN SENATE APRIL 9, 2012

SENATE BILL

No. 1395

Introduced by Senator Rubio

February 24, 2012

An act to amend Section 6145 of the Business and Professions Code, to amend Section 94949 of the Education Code, to amend Sections 6254.14, 8543, 8543.1, 8543.2, 8543.3, 8543.4, 8543.5, 8543.6, 8543.7, 8544, 8544.2, 8544.3, 8544.4, 8544.5, 8544.6, 8545, 8545.1, 8545.2, 8545.3, 8545.4, 8545.5, 8546, 8546.1, 8546.2, 8546.3, 8546.4, 8546.5, 8546.6, 8546.7, 8546.8, 8546.10, 8547.2, 8548.4, and 54954.5 of, *to amend the heading of Chapter 6.5 (commencing with Section 8543) of Division 1 of Title 2 of*, the Government Code, to amend Section 130506 of the Health and Safety Code, to amend Section 1872.83 of the Insurance Code, to amend Section 5024 of the Penal Code, to amend Section 71560 of the Public Resources Code, to amend Section 421 of the Public Utilities Code, and to amend Section 80270 of the Water Code, relating to the State Auditor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1395, as amended, Rubio. State Auditor.

Existing law creates in state government the Bureau of State Audits under the direction of the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy. Existing law provides that the bureau is *headed by the State Auditor and* independent of the executive branch and legislative control.

This bill would rename the Bureau of State Audits as the *California State Auditor's Office* and the *State Auditor* as the *California State Auditor*. The bill would prohibit any supplies, forms, insignias, signs, or logos from being destroyed or changed as a result of the name change and would require their continued use until exhausted or unserviceable. The bill would make nonsubstantive, conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6145 of the Business and Professions
2 Code is amended to read:

3 6145. (a) The board shall engage the services of an independent
4 national or regional public accounting firm with at least five years
5 of experience in governmental auditing for an audit of its financial
6 statement for each fiscal year. The financial statement shall be
7 promptly certified under oath by the Treasurer of the State Bar,
8 and a copy of the audit and financial statement shall be submitted
9 within 120 days of the close of the fiscal year to the board, to the
10 Chief Justice of the Supreme Court, and to the Assembly and
11 Senate Committees on Judiciary.

12 The audit shall examine the receipts and expenditures of the
13 State Bar and the State Bar sections to ensure that the receipts of
14 the sections are being applied, and their expenditures are being
15 made, in compliance with subdivision (a) of Section 6031.5, and
16 that the receipts of the sections are applied only to the work of the
17 sections.

18 The audit also shall examine the receipts and expenditures of
19 the State Bar to ensure that the funds collected on behalf of the
20 Conference of Delegates of California Bar Associations as the
21 independent successor entity to the former Conference of Delegates
22 of the State Bar are conveyed to that entity, that the State Bar has
23 been paid or reimbursed for the full cost of any administrative and
24 support services provided to the successor entity, including the
25 collection of fees or donations on its behalf, and that no mandatory
26 dues are being used to fund the activities of the successor entity.

27 In selecting the accounting firm, the board shall consider the
28 value of continuity, along with the risk that continued long-term

1 engagements of an accounting firm may affect the independence
2 of that firm.

3 (b) The board shall contract with the *California* State Auditor's
4 Office to conduct a performance audit of the State Bar's operations
5 from July 1, 2000, to December 31, 2000, inclusive. A copy of the
6 performance audit shall be submitted by May 1, 2001, to the board,
7 to the Chief Justice of the Supreme Court, and to the Assembly
8 and Senate Committees on Judiciary.

9 Every two years thereafter, the board shall contract with the
10 *California* State Auditor's Office to conduct a performance audit
11 of the State Bar's operations for the respective fiscal year,
12 commencing with January 1, 2002, to December 31, 2002,
13 inclusive. A copy of the performance audit shall be submitted
14 within 120 days of the close of the fiscal year for which the audit
15 was performed to the board, to the Chief Justice of the Supreme
16 Court, and to the Assembly and Senate Committees on Judiciary.

17 For the purposes of this subdivision, the *California* State
18 Auditor's Office may contract with a third party to conduct the
19 performance audit. This subdivision is not intended to reduce the
20 number of audits the *California* State Auditor's Office may
21 otherwise be able to conduct.

22 SEC. 2. Section 94949 of the Education Code is amended to
23 read:

24 94949. (a) On or before October 1, 2013, the Legislative
25 Analyst's Office shall report to the Legislature and the Governor
26 on the appropriateness of the exemptions provided in this chapter,
27 with particular attention to the exemptions provided by Article 4
28 (commencing with Section 94874) that are based on accreditation.
29 The report shall examine and make recommendations regarding
30 the degree to which regional and national accrediting agencies
31 provide oversight of institutions and protection of student interests,
32 whether that oversight results in the same level of protection of
33 students as provided by this chapter, and whether the exemptions
34 provided in Article 4 (commencing with Section 94874) that are
35 based on accreditation should be continued, adjusted, or removed.

36 (b) (1) On or before August 1, 2013, the bureau shall contract
37 with the *California* State Auditor's Office to conduct a performance
38 audit to evaluate the effectiveness and efficiency of the bureau's
39 operations, consistent with the requirements of this chapter, and

1 the *California* State Auditor's Office shall report the results of that
2 audit to the Legislature and the Governor.

3 (2) The performance audit required by paragraph (1) shall
4 include, but shall not be limited to, an evaluation of all of the
5 following:

6 (A) The Student Tuition Recovery Fund, including the adequacy
7 of its balance; the quality, timeliness, and consistency of claims
8 processing; and the degree to which it has been, or will be, able
9 to reimburse tuition for students.

10 (B) The bureau's enforcement program, including the means
11 by which the bureau makes students and school employees aware
12 of their ability to file complaints; the average time for investigating
13 complaints; the standards for referring complaints to investigation;
14 the average time to complete investigations; the adequacy of the
15 bureau's inspections; the bureau's record of imposing discipline;
16 the bureau's record of initiating investigations based upon publicly
17 available information; the bureau's record of coordinating with
18 law enforcement and public prosecutors; and whether the bureau
19 has the enforcement resources necessary to protect consumers and
20 ensure a fair and prompt resolution of complaints and investigations
21 for both students and institutions.

22 (C) The bureau's efforts with respect to, and extent of institution
23 compliance with, the public and student disclosure requirements
24 of this chapter.

25 (D) Whether the bureau's staffing level and expertise are
26 sufficient to fulfill its statutory responsibilities.

27 (c) Bureau staff and management shall cooperate with the
28 Legislative Analyst's Office and the *California* State Auditor's
29 Office and shall provide those agencies with access to data, case
30 files, employees, and information as those agencies may, in their
31 discretion, require for the purposes of this section.

32 SEC. 3. Section 6254.14 of the Government Code is amended
33 to read:

34 6254.14. (a) (1) Except as provided in Sections 6254 and
35 6254.7, nothing in this chapter shall be construed to require
36 disclosure of records of the Department of Corrections and
37 Rehabilitation that relate to health care services contract
38 negotiations, and that reveal the deliberative processes, discussions,
39 communications, or any other portion of the negotiations,
40 including, but not limited to, records related to those negotiations

1 such as meeting minutes, research, work product, theories, or
2 strategy of the department, or its staff, or members of the California
3 Medical Assistance Commission, or its staff, who act in
4 consultation with, or on behalf of, the department.

5 (2) Except for the portion of a contract that contains the rates
6 of payment, contracts for health services entered into by the
7 Department of Corrections and Rehabilitation or the California
8 Medical Assistance Commission on or after July 1, 1993, shall be
9 open to inspection one year after they are fully executed. In the
10 event that a contract for health services that is entered into prior
11 to July 1, 1993, is amended on or after July 1, 1993, the
12 amendment, except for any portion containing rates of payment,
13 shall be open to inspection one year after it is fully executed.

14 (3) Three years after a contract or amendment is open to
15 inspection under this subdivision, the portion of the contract or
16 amendment containing the rates of payment shall be open to
17 inspection.

18 (4) Notwithstanding any other provision of law, including, but
19 not limited to, Section 1060 of the Evidence Code, the entire
20 contract or amendment shall be open to inspection by the Joint
21 Legislative Audit Committee, the *California* State Auditor's Office,
22 and the Legislative Analyst's Office. The Joint Legislative Audit
23 Committee, the *California* State Auditor's Office, and the
24 Legislative Analyst's Office shall maintain the confidentiality of
25 the contracts and amendments until the contract or amendment is
26 fully open to inspection by the public.

27 (5) It is the intent of the Legislature that confidentiality of health
28 care provider contracts, and of the contracting process as provided
29 in this subdivision, is intended to protect the competitive nature
30 of the negotiation process, and shall not affect public access to
31 other information relating to the delivery of health care services.

32 (b) The inspection authority and confidentiality requirements
33 established in subdivisions (q), (v), and (y) of Section 6254 for
34 the Legislative Audit Committee shall also apply to the *California*
35 State Auditor's Office and the Legislative Analyst's Office.

36 *SEC. 4. The heading of Chapter 6.5 (commencing with Section*
37 *8543) of Division 1 of Title 2 of the Government Code is amended*
38 *to read:*
39

40 CHAPTER 6.5. CALIFORNIA STATE AUDITOR

1 ~~SEC. 4.~~

2 ~~SEC. 5.~~ Section 8543 of the Government Code is amended to
3 read:

4 8543. (a) There is hereby created in state government the
5 *California State Auditor's Office* under the direction of the Milton
6 Marks "Little Hoover" Commission on California State
7 Government Organization and Economy. In order to be free of
8 organizational impairments to independence, the office shall be
9 independent of the executive branch and legislative control.

10 (b) Notwithstanding any other law, any reference to the "Bureau
11 of State Audits" or "~~bureau~~" "*bureau*," as used in a context to
12 refer to the *Bureau of the State Audits*, shall be deemed to refer to
13 the "~~State~~" "*California State Auditor's Office*," and any
14 reference to the "*State Auditor*" or "*auditor*," as used in a context
15 to refer to the "*State Auditor*," shall be deemed to refer to the
16 "*California State Auditor*."

17 ~~SEC. 5.~~

18 ~~SEC. 6.~~ Section 8543.1 of the Government Code is amended
19 to read:

20 8543.1. The duties of the *California State Auditor's Office* are
21 to examine and report annually upon the financial statements
22 prepared by the executive branch of the state and to perform other
23 related assignments, including performance audits, that are
24 mandated by statute. For the purposes of this chapter "office"
25 means the "~~State~~" "*California State Auditor's Office*," unless the
26 context clearly requires otherwise.

27 ~~SEC. 6.~~

28 ~~SEC. 7.~~ Section 8543.2 of the Government Code is amended
29 to read:

30 8543.2. (a) The head of the office is the *California State*
31 *Auditor*, who shall be appointed by the Governor from a list of
32 three qualified individuals nominated by the Joint Legislative Audit
33 Committee by a vote of at least a majority of the committee
34 membership from each house of the Legislature. The term of any
35 individual appointed as the *California State Auditor* shall be four
36 years. Any vacancy in the office of the *California State Auditor*
37 shall be filled in the same manner provided by this subdivision for
38 a full term.

1 (b) As the head of the office, the *California* State Auditor may
2 establish constituent parts of the office to carry out the powers and
3 duties of the office unless otherwise specified by law.

4 (c) The office has a Chief Deputy *California* State Auditor.

5 *SEC. 8. Section 8543.3 of the Government Code is amended*
6 *to read:*

7 8543.3. The *California* State Auditor shall be chosen without
8 reference to party affiliation and solely on the ground of fitness to
9 perform the duties of the office *of the California State Auditor*.
10 Prior to selection, the *California* State Auditor shall possess a
11 combination of education and experience in auditing and
12 management necessary to perform the duties of ~~the~~ *that* office.

13 ~~SEC. 7.~~

14 *SEC. 9. Section 8543.4 of the Government Code is amended*
15 *to read:*

16 8543.4. In administering the fiscal policies of the *California*
17 State Auditor's Office, for each fiscal year, the office shall provide
18 the Department of Finance with the office's proposed budget and
19 the Department of Finance shall include that proposed budget in
20 the Governor's Budget without modification.

21 *SEC. 10. Section 8543.5 of the Government Code is amended*
22 *to read:*

23 8543.5. The Chief Deputy *California* State Auditor shall be
24 appointed by the *California* State Auditor. The Chief Deputy
25 *California* State Auditor shall carry out those duties prescribed by
26 the *California* State Auditor and shall act for the *California* State
27 Auditor when the *California* State Auditor is absent or unable to
28 serve or when the office of the *California* State Auditor is vacant.
29 The tenure of any incumbent Chief Deputy *California* State Auditor
30 shall expire on any date that an individual is appointed *California*
31 State Auditor, but any incumbent Chief Deputy *California* State
32 Auditor may be reappointed pursuant to this section.

33 *SEC. 11. Section 8543.6 of the Government Code is amended*
34 *to read:*

35 8543.6. The *California* State Auditor may be removed for cause
36 at any time by concurrent resolution of the Legislature. A
37 *California* State Auditor removed pursuant to this section may not
38 be reappointed to ~~the~~ *that* office.

39 *SEC. 12. Section 8543.7 of the Government Code is amended*
40 *to read:*

1 8543.7. (a) The annual salary for the *California* State Auditor
2 shall be equal to that of agency secretaries of the executive branch
3 of government pursuant to Section 11550.

4 (b) The *California* State Auditor shall be repaid all actual
5 expenses incurred or paid by him or her in the discharge of his or
6 her duties.

7 ~~SEC. 8.~~

8 ~~SEC. 13.~~ Section 8544 of the Government Code is amended
9 to read:

10 8544. (a) Consistent with subdivision (i) of Section 8546, the
11 *California* State Auditor may employ and fix the compensation,
12 in accordance with Article VII of the California Constitution, of
13 those professional assistants and technical, clerical, deputy state
14 auditors, and other officers and employees as he or she deems
15 necessary for the effective conduct of the work under his or her
16 charge.

17 (b) In establishing and adjusting classes of positions, and
18 establishing and adjusting salary ranges for each class of position,
19 to provide for the continued ability to attract and maintain qualified
20 individuals within the *California* State Auditor's Office,
21 consideration shall be given to the fact that the level of education,
22 experience, knowledge, and ability required of the employees in
23 the office is generally higher than that of state service generally,
24 due to the unique duties and responsibilities imposed on the office
25 and the relatively small number of employees.

26 (c) When fixing compensation for employees, the *California*
27 State Auditor shall consider prevailing rates for comparable service
28 in other public employment and private business.

29 ~~SEC. 9.~~

30 ~~SEC. 14.~~ Section 8544.2 of the Government Code is amended
31 to read:

32 8544.2. Persons employed by the office pursuant to Section
33 8544.1 shall be allowed to enroll in the Public Employees' Medical
34 and Hospital Care Act contained in Part 5 (commencing with
35 Section 22751) of Division 5 of Title 2.

36 ~~SEC. 10.~~

37 ~~SEC. 15.~~ Section 8544.3 of the Government Code is amended
38 to read:

39 8544.3. All persons employed by the office pursuant to Section
40 8544.1 who were members of the Public Employees' Retirement

1 System as of November 3, 1992, shall retain their existing
2 classification within the system and shall be considered state
3 miscellaneous members as defined in Section 20014.

4 *SEC. 16. Section 8544.4 of the Government Code is amended*
5 *to read:*

6 8544.4. The permanent office of the *California* State Auditor
7 shall be in Sacramento, where he or she shall be provided with
8 suitable and sufficient offices. When in his or her judgment the
9 conduct of the work requires, he or she may maintain offices at
10 other places in the state.

11 ~~SEC. 11.~~

12 *SEC. 17. Section 8544.5 of the Government Code is amended*
13 *to read:*

14 8544.5. (a) There is hereby established in the State Treasury
15 the State Audit Fund. Notwithstanding Section 13340, the State
16 Audit Fund is continuously appropriated for the expenses of the
17 *California* State Auditor. There shall be appropriated annually in
18 the Budget Act to the State Audit Fund, from the General Fund
19 and the Central Service Cost Recovery Fund, the amount necessary
20 to reimburse the State Audit Fund for the cost of audits and any
21 other duties to be performed that are not directly reimbursed under
22 subdivision (c), including for the cost of any other duties imposed
23 on the office by statute. "Cost of audits or any other duties" means
24 all direct and indirect costs of conducting the audits or other duties,
25 and any other expenses incurred by the *California* State Auditor
26 in fulfilling his or her statutory responsibilities.

27 (b) With regard to the funds appropriated pursuant to subdivision
28 (a), upon certification by the *California* State Auditor of estimated
29 costs on a monthly basis, the Controller shall transfer the amount
30 thus certified from the General Fund or the Central Service Cost
31 Recovery Fund, as applicable, to the State Audit Fund. The
32 Controller shall thereafter issue warrants drawn against the State
33 Audit Fund upon receipt of claims certified by the *California* State
34 Auditor.

35 (c) To ensure appropriate reimbursement from federal and
36 special funds for the costs of the duties performed pursuant to
37 Section 8546.3, the *California* State Auditor may directly bill state
38 agencies for the costs incurred, subject to the approval of the
39 Director of Finance.

(d) To ensure adequate oversight of the operations of the office, the Milton Marks “Little Hoover” Commission on California State Government Organization and Economy shall annually obtain the services of an independent public accountant to audit the State Audit Fund and the operation of the office to ensure compliance with state law, including Section 8546. The results of this audit shall be submitted to the commission and shall be a public record.

(e) To ensure that audits of the Milton Marks “Little Hoover” Commission on California State Government Organization and Economy are conducted in conformity with government auditing standards, any audit of the commission that is required or permitted by law shall be conducted by the independent public accountant selected pursuant to subdivision (d).

~~SEC. 12.~~

SEC. 18. Section 8544.6 of the Government Code is amended to read:

8544.6. All unreimbursed expenditures of the office are defined as “administrative costs” defined in Section 11270.

~~SEC. 13.~~

SEC. 19. Section 8545 of the Government Code is amended to read:

8545. The *California* State Auditor shall not destroy any papers or memoranda used to support a completed audit sooner than three years after the audit report is released to the public. All books, papers, records, and correspondence of the office pertaining to its work are public records subject to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 and shall be filed at any of the regularly maintained offices of the *California* State Auditor, except that none of the following items or papers of which these items are a part shall be released to the public by the *California* State Auditor, his or her employees, or members of the commission:

(a) Personal papers and correspondence of any person providing assistance to the *California* State Auditor when that person has requested in writing that his or her papers and correspondence be kept private and confidential. Those papers and correspondence shall become public records if the written request is withdrawn or upon the order of the *California* State Auditor.

(b) Papers, correspondence, memoranda, or any substantive information pertaining to any audit not completed.

1 (c) Papers, correspondence, or memoranda pertaining to any
2 audit that has been completed, which papers, correspondence, or
3 memoranda are not used in support of any report resulting from
4 the audit.

5 (d) Any survey of public employees that the *California* State
6 Auditor determines should be kept confidential because the
7 employees have expressed fear of retaliation by their employer if
8 they respond to the survey.

9 ~~SEC. 14.~~

10 *SEC. 20.* Section 8545.1 of the Government Code is amended
11 to read:

12 8545.1. (a) The *California* State Auditor, and any employee
13 or former employee of the office, shall not divulge or make known
14 to any person not employed by the office in any manner not
15 expressly permitted by law any particulars of any record, document,
16 or information the disclosure of which is restricted by law from
17 release to the public. This prohibition includes, but is not limited
18 to, the restrictions on the release of records, documents, or
19 information set forth in Section 8545.

20 (b) Subdivision (a) also applies to either of the following:

21 (1) Any person or business entity that is contracting with or has
22 contracted with the office and to the employees and former
23 employees of that person or business entity.

24 (2) The officers and employees of and any person or business
25 entity that is contracting with or has contracted with any state or
26 local governmental agency or publicly created entity that has
27 assisted the office in the course of any audit or investigation or
28 that has received a draft copy of any report or other draft document
29 from the office for comment or review.

30 (c) Any officer, employee, or person who discloses the
31 particulars of any record, document, or other information in
32 violation of this section is guilty of a misdemeanor.

33 *SEC. 21.* Section 8545.2 of the Government Code is amended
34 to read:

35 8545.2. (a) Notwithstanding any other provision of law, the
36 *California* State Auditor during regular business hours shall have
37 access to and authority to examine and reproduce, any and all
38 books, accounts, reports, vouchers, correspondence files, and all
39 other records, bank accounts, and money or other property, of any
40 agency of the state, whether created by the California Constitution

1 or otherwise, any local governmental entity, including any city,
2 county, and school or special district, and any publicly created
3 entity, for any audit or investigation. Any officer or employee of
4 any agency or entity having these records or property in his or her
5 possession, under his or her control, or otherwise having access
6 to them, shall permit access to, and examination and reproduction
7 thereof, upon the request of the *California* State Auditor or his or
8 her authorized representative.

9 (b) For the purposes of access to and examination and
10 reproduction of the records and property described in subdivision
11 (a), an authorized representative of the *California* State Auditor
12 is an employee or officer of the state or local governmental agency
13 or publicly created entity involved and is subject to any limitations
14 on release of the information as may apply to an employee or
15 officer of the state or local governmental agency or publicly created
16 entity. For the purpose of conducting any audit or investigation,
17 the *California* State Auditor or his or her authorized representative
18 shall have access to the records and property of any public or
19 private entity or person subject to review or regulation by the public
20 agency or public entity being audited or investigated to the same
21 extent that employees or officers of that agency or public entity
22 have access. No provision of law providing for the confidentiality
23 of any records or property shall prevent disclosure pursuant to
24 subdivision (a), unless the provision specifically refers to and
25 precludes access and examination and reproduction pursuant to
26 subdivision (a). Providing confidential information to the
27 *California* State Auditor pursuant to this section, including, but
28 not limited to, confidential information that is subject to a privilege,
29 shall not constitute a waiver of that privilege. This subdivision
30 does not apply to records compiled pursuant to Part 1 (commencing
31 with Section 8900) or Part 2 (commencing with Section 10200)
32 of Division 2.

33 (c) Any officer or person who fails or refuses to permit access
34 and examination and reproduction, as required by this section, is
35 guilty of a misdemeanor.

36 (d) For purposes of this section “confidentiality of records or
37 property” means that the record or property may lawfully be kept
38 confidential as a result of a statutory or common law privilege or
39 any other provision of law.

1 *SEC. 22. Section 8545.3 of the Government Code is amended*
2 *to read:*

3 8545.3. It is a misdemeanor for the *California* State Auditor
4 or any employee of the *California* State Auditor to release any
5 information received pursuant to Section 10850 of the Welfare
6 and Institutions Code or that is otherwise prohibited by law to be
7 disclosed.

8 *SEC. 23. Section 8545.4 of the Government Code is amended*
9 *to read:*

10 8545.4. (a) In connection with any audit or investigation
11 conducted by the *California* State Auditor, the *California* State
12 Auditor, or his or her designee, may do any of the following:

- 13 (1) Administer oaths.
14 (2) Certify to all official acts.
15 (3) Issue subpoenas for the attendance of witnesses and the
16 production of papers, books, accounts, or documents, or for the
17 making of oral or written sworn statements, in any interview
18 conducted as part of an audit or investigation.

19 (b) Any subpoena issued under this section extends as process
20 to all parts of the state and may be served by any person authorized
21 to serve process of courts of record or by any person designated
22 for that purpose by the *California* State Auditor or his or her
23 designee. The person serving this process may receive
24 compensation as allowed by the *California* State Auditor or his or
25 her designee, not to exceed the fees prescribed by law for similar
26 service.

27 (c) Notwithstanding Section 7470, 7474, or 7491, subpoenas
28 issued under this section for financial records of financial
29 institutions concerning customers of financial institutions or for
30 information contained in those records shall not be subject to the
31 requirement or conditions of Section 7474.

32 *SEC. 24. Section 8545.5 of the Government Code is amended*
33 *to read:*

34 8545.5. (a) The superior court in the county in which any
35 interview is held under the direction of the *California* State Auditor
36 or his or her designee has jurisdiction to compel the attendance of
37 witnesses, the making of oral or written sworn statements, and the
38 production of papers, books, accounts, and documents, as required
39 by any subpoena issued by the *California* State Auditor or his or
40 her designee.

(b) If any witness refuses to attend or testify or produce any papers required by the subpoena, the *California* State Auditor or his or her designee may petition the superior court in the county in which the hearing is pending for an order compelling the person to attend and answer questions under penalty of perjury or produce the papers required by the subpoena before the person named in the subpoena. The petition shall set forth all of the following:

(1) That due notice of the time and place of attendance of the person or the production of the papers has been given.

(2) That the person has been subpoenaed in the manner prescribed in Section 8545.4.

(3) That the person has failed and refused to attend or produce the papers required by subpoena before the *California* State Auditor or his or her designee as named in the subpoena, or has refused to answer questions propounded to him or her in the course of the interview under penalty of perjury.

(c) Upon the filing of the petition, the court shall enter an order directing the person to appear before the court at a specified time and place and then and there show cause why he or she has not attended, answered questions under penalty of perjury, or produced the papers as required. A copy of the order shall be served upon him or her. If it appears to the court that the subpoena was regularly issued by the *California* State Auditor or his or her designee, the court shall enter an order that the person appear before the person named in the subpoena at the time and place fixed in the order and answer questions under penalty of perjury or produce the required papers. Upon failure to obey the order, the person shall be dealt with as for contempt of court.

~~SEC. 15. Section 8546 of the Government Code is amended to read:~~

~~8546. It is the intent of the Legislature that the State Auditor's Office have the independence necessary to conduct all of its audits in conformity with "Government Auditing Standards" published by the Comptroller General of the United States and the standards published by the American Institute of Certified Public Accountants, free from influence of existing state control agencies that could be the subject of audits conducted by the office. Therefore, all of the following exclusions apply to the office:~~

~~(a) Notwithstanding Section 19790, the State Auditor shall establish an equal employment opportunity program that shall~~

1 meet the criteria and objectives established by the State Personnel
2 Board. The State Auditor shall report annually to the State
3 Personnel Board and the commission regarding the program.

4 (b) Notwithstanding Section 12470, the State Auditor shall be
5 responsible for maintaining its payroll system. In lieu of audits of
6 the uniform payroll system performed by the Controller or any
7 other department, the office shall contract pursuant to subdivision
8 (e) of Section 8544.5 for an annual audit of its payroll and financial
9 operations by an independent public accountant.

10 (c) Notwithstanding Section 13292, the State Auditor is
11 delegated the authority to establish and administer the fiscal and
12 administrative policies of the office in conformity with the State
13 Administrative Manual without oversight by the Department of
14 Finance, the Department of Information Technology, or any other
15 state agency.

16 (d) Notwithstanding Section 11032, the State Auditor may
17 approve actual and necessary traveling expenses for travel outside
18 the state for officers and employees of the office.

19 (e) Notwithstanding Section 11033, the State Auditor or officers
20 and employees of the office may be absent from the state on
21 business of the state upon approval of the State Auditor or Chief
22 Deputy State Auditor.

23 (f) Sections 11040, 11042, and 11043 shall not apply to the
24 State Auditor's Office. The State Auditor may employ legal counsel
25 under those terms that he or she deems necessary to conduct the
26 legal business of, or render legal counsel to, the State Auditor.

27 (g) The provisions and definitions of Article 2 (commencing
28 with Section 11342.510) of Chapter 3.5 of Division 3 shall not be
29 construed to include the State Auditor's Office. The State Auditor
30 may adopt regulations necessary for the operation of the office
31 pursuant to the provisions of the Administrative Procedure Act
32 (Chapter 3.5 (commencing with Section 11340) of Division 3);
33 but these regulations shall not be subject to the review or approval
34 of the Office of Administrative Law.

35 (h) The State Auditor shall be exempt from all contract
36 requirements of the Public Contract Code that require oversight,
37 review, or approval by the Department of General Services or any
38 other state agency. The State Auditor may contract on behalf of
39 the State of California for goods and services that he or she deems
40 necessary for the furtherance of the purposes of the office.

1 ~~(i) (1) Subject to Article VII of the California Constitution, the~~
2 ~~State Auditor is delegated the authority to establish and administer~~
3 ~~the personnel policies and practices of the State Auditor's Office~~
4 ~~in conformity with Part 2.6 (commencing with Section 19815) of~~
5 ~~Division 5 of Title 2 without oversight or approval by the~~
6 ~~Department of Personnel Administration.~~

7 ~~(2) At the election of the State Auditor, officers and employees~~
8 ~~of the office may participate in benefits programs administered by~~
9 ~~the Department of Personnel Administration subject to the same~~
10 ~~conditions for participation that apply to civil service employees~~
11 ~~in other state agencies. For the purposes of benefits programs~~
12 ~~administration only, the State Auditor is subject to the~~
13 ~~determinations of the department. The State Auditor's Office shall~~
14 ~~reimburse the Department of Personnel Administration for the~~
15 ~~normal administrative costs incurred by the Department of~~
16 ~~Personnel Administration and for any extraordinary costs resulting~~
17 ~~from the inclusion of the office employees in these state benefit~~
18 ~~programs.~~

19 ~~SEC. 25. Section 8546 of the Government Code is amended to~~
20 ~~read:~~

21 ~~8546. It is the intent of the Legislature that the Bureau of State~~
22 ~~Audits California State Auditor's Office have the independence~~
23 ~~necessary to conduct all of its audits in conformity with~~
24 ~~"Government Auditing Standards" published by the Comptroller~~
25 ~~General of the United States and the standards published by the~~
26 ~~American Institute of Certified Public Accountants, free from~~
27 ~~influence of existing state control agencies that could be the subject~~
28 ~~of audits conducted by the bureau office. Therefore, all of the~~
29 ~~following exclusions apply to the office:~~

30 ~~(a) Notwithstanding Section 19790, the California State Auditor~~
31 ~~shall establish an equal employment opportunity program that shall~~
32 ~~meet the criteria and objectives established by the State Personnel~~
33 ~~Board. The California State Auditor shall report annually to the~~
34 ~~State Personnel Board and the commission regarding the program.~~

35 ~~(b) Notwithstanding Section 12470, the California State Auditor~~
36 ~~shall be responsible for maintaining its payroll system. In lieu of~~
37 ~~audits of the uniform payroll system performed by the Controller~~
38 ~~or any other department, the office shall contract pursuant to~~
39 ~~subdivision (e) of Section 8544.5 for an annual audit of its payroll~~
40 ~~and financial operations by an independent public accountant.~~

1 (c) Notwithstanding Section 13292, the *California* State Auditor
2 is delegated the authority to establish and administer the fiscal and
3 administrative policies of the ~~bureau~~ office in conformity with the
4 State Administrative Manual without oversight by the Department
5 of Finance, the Department of Information Technology, or any
6 other state agency.

7 (d) Notwithstanding Section 11032, the *California* State Auditor
8 may approve actual and necessary traveling expenses for travel
9 outside the state for officers and employees of the ~~bureau~~ office.

10 (e) Notwithstanding Section 11033, the *California* State Auditor
11 or officers and employees of the ~~bureau~~ office may be absent from
12 the state on business of the state upon approval of the *California*
13 State Auditor or Chief Deputy *California* State Auditor.

14 (f) Sections 11040, 11042, and 11043 shall not apply to the
15 ~~Bureau of State Audits~~ *California State Auditor's Office*. The
16 *California* State Auditor may employ legal counsel under those
17 terms that he or she deems necessary to conduct the legal business
18 of, or render legal counsel to, the *California* State Auditor.

19 (g) The provisions and definitions of Article 2 (commencing
20 with Section 11342.510) of Chapter 3.5 of Division 3 shall not be
21 construed to include the ~~Bureau of State Audits~~ *California State*
22 *Auditor's Office*. The *California* State Auditor may adopt
23 regulations necessary for the operation of the ~~bureau~~ office pursuant
24 to the provisions of the Administrative Procedure Act (Chapter
25 3.5 (commencing with Section 11340) of Division 3), but these
26 regulations shall not be subject to the review or approval of the
27 Office of Administrative Law.

28 (h) The *California* State Auditor shall be exempt from all
29 contract requirements of the Public Contract Code that require
30 oversight, review, or approval by the Department of General
31 Services or any other state agency. The *California* State Auditor
32 may contract on behalf of the State of California for goods and
33 services that he or she deems necessary for the furtherance of the
34 purposes of the ~~bureau~~ office.

35 (i) (1) Subject to Article VII of the California Constitution, the
36 *California* State Auditor is delegated the authority to establish and
37 administer the personnel policies and practices of the ~~Bureau of~~
38 ~~State Audits~~ *California State Auditor's Office* in conformity with
39 Part 2.6 (commencing with Section 19815) of Division 5 of Title

1 2 without oversight or approval by the ~~Department of Personnel~~
2 ~~Administration~~ *Department of Human Resources*.

3 (2) At the election of the *California State Auditor*, officers and
4 employees of the ~~bureau office~~ may participate in benefits programs
5 administered by the ~~Department of Personnel Administration~~
6 *Department of Human Resources* subject to the same conditions
7 for participation that apply to civil service employees in other state
8 agencies. For the purposes of benefits programs administration
9 only, the *California State Auditor* is subject to the determinations
10 of the department. The ~~Bureau of State Audits~~ *California State*
11 *Auditor's Office* shall reimburse the ~~Department of Personnel~~
12 ~~Administration~~ *Department of Human Resources* for the normal
13 administrative costs incurred by the ~~Department of Personnel~~
14 ~~Administration~~ *Department of Human Resources* and for any
15 extraordinary costs resulting from the inclusion of the ~~bureau office~~
16 employees in these state benefit programs.

17 SEC. 26. *Section 8546.1 of the Government Code is amended*
18 *to read:*

19 8546.1. (a) The *California State Auditor* shall conduct financial
20 and performance audits as directed by statute. The *California State*
21 *Auditor* may conduct these audits of any state agency as defined
22 by Section 11000, whether created by the California Constitution
23 or otherwise, any local governmental agency, including any city,
24 county, and school or special district, or any publicly created entity.
25 However, the *California State Auditor* shall not audit the activities
26 of the Milton Marks Commission on California State Government
27 Organization and Economy or the Legislature to assure compliance
28 with government auditing standards.

29 (b) The *California State Auditor* shall conduct any audit of a
30 state or local governmental agency or any other publicly created
31 entity that is requested by the Joint Legislative Audit Committee
32 to the extent that funding is available and in accordance with the
33 priority established by the committee with respect to other audits
34 requested by the committee. Members of the Legislature may
35 submit requests for audits to the committee for its consideration
36 and approval. Any audit request approved by the committee shall
37 be forwarded to the *California State Auditor* as a committee
38 request.

39 (c) The *California State Auditor* shall complete any audit in a
40 timely manner and in accordance with the "Government Auditing

Standards” published by the Comptroller General of the United States.

(d) Immediately upon completion of the audit, the *California* State Auditor shall transmit a copy of the audit report to the commission. Not later than 24 hours after delivery to the commission, the *California* State Auditor shall deliver the report to the Legislature, appropriate committees or subcommittees of the Legislature, and the Governor. Once transmitted to these parties, the report shall be made available to the public.

SEC. 27. *Section 8546.2 of the Government Code is amended to read:*

8546.2. (a) The *California* State Auditor shall request that any state agency, as defined in Section 11000, whether created by the California Constitution or otherwise, any local governmental agency, including any city, county, city and county, school, or special district, or any publicly created entity, that is the subject of an audit or investigation conducted pursuant to this chapter provide updates on its progress in implementing the recommendations made by the *California* State Auditor, at intervals prescribed by the *California* State Auditor.

(b) Any state agency described in subdivision (a) shall provide the *California* State Auditor, in the form prescribed by the *California* State Auditor, with updates on implementation of recommendations as described in subdivision (a).

SEC. 28. *Section 8546.3 of the Government Code is amended to read:*

8546.3. The *California* State Auditor shall examine and report annually upon the financial statements otherwise prepared by the executive branch of the state so that the Legislature and the public will be informed of the adequacy of those financial statements in compliance with generally accepted accounting principles. In making that examination, the *California* State Auditor may make the audit examination of accounts and records, accounting procedures, and internal auditing performance that he or she determines to be necessary to disclose all material facts necessary to proper reporting in accordance with the federal Single Audit Act of 1984 (31 U.S.C. ~~Section~~ *Sec. 7501 and following et seq.*) and the purposes set forth in Section 8521.5.

1 ~~SEC. 16.~~

2 ~~SEC. 29.~~ Section 8546.4 of the Government Code is amended
3 to read:

4 8546.4. (a) The *California* State Auditor shall annually issue
5 an auditor's report based upon the general purpose financial
6 statements included in the Controller's annual report that is
7 submitted to the Governor pursuant to Section 12460. The report
8 shall be in accordance with the "Government Auditing Standards"
9 published by the Comptroller General of the United States and the
10 standards published by the American Institute of Certified Public
11 Accountants.

12 (b) The *California* State Auditor, in the performance of this
13 annual audit and any other audit or investigation undertaken by
14 the office, may examine all the financial records, accounts, and
15 documents of any state agency as defined by Section 11000.

16 (c) The *California* State Auditor shall rely, to the maximum
17 extent possible, upon the audits performed by the Controller, the
18 Department of Finance, internal auditors of state agencies, and
19 independent contractors. The Director of Finance shall be
20 responsible for coordinating and providing technical assistance to
21 the internal auditors of state agencies. Nothing in this article is
22 intended to reduce or restrict the operations of internal auditors
23 whose review of internal financial and administrative controls of
24 state agencies is essential for coordinated audits.

25 (d) State agencies receiving federal funds shall be primarily
26 responsible for arranging for federally required financial and
27 compliance audits. State agencies shall immediately notify the
28 Director of Finance, the *California* State Auditor, and the
29 Controller when they are required to obtain federally required
30 financial and compliance audits. The Director of Finance, the
31 *California* State Auditor, and the Controller shall coordinate the
32 procurement by state agencies, including any negotiations with
33 cognizant federal agencies, of federally required financial and
34 compliance audits.

35 (e) To prevent duplication of the annual audit conducted by the
36 *California* State Auditor pursuant to subdivision (a), except for
37 those state agencies that are required by state law to obtain an
38 annual audit, no state agency shall enter into a contract for a
39 financial or compliance audit without prior written approval of the
40 Controller and the Director of Finance, which approval shall state

1 the reason for the contract and shall be filed with the *California*
2 State Auditor at least 30 days prior to the award of the contract.
3 No funds appropriated by the Legislature shall be encumbered for
4 the purpose of funding any contract for an audit that duplicates
5 the annual financial audit conducted by the *California* State
6 Auditor.

7 (f) Notwithstanding any other provision of this article, nothing
8 in this section shall be construed to limit, restrict, or otherwise
9 infringe upon the constitutional or statutory authority of the
10 Controller to superintend the fiscal concerns of the state.

11 (g) Except as provided in subdivision (b), notwithstanding any
12 other provision of this article, nothing in this section shall be
13 construed to limit, restrict, or otherwise infringe upon the statutory
14 authority of the Director of Finance to supervise the financial and
15 business policies of the state.

16 *SEC. 30. Section 8546.5 of the Government Code is amended*
17 *to read:*

18 8546.5. (a) The *California* State Auditor may establish a
19 high-risk government agency audit program for the purpose of
20 identifying, auditing, and issuing reports on any agency of the
21 state, whether created by the California Constitution or otherwise,
22 as well as statewide issues, that the *California* State Auditor
23 identifies as being at high risk for the potential of waste, fraud,
24 abuse, and mismanagement or that has major challenges associated
25 with its economy, efficiency, or effectiveness.

26 (b) In addition to identifying an agency as high risk on the basis
27 of weaknesses identified in audit and investigative reports produced
28 by the ~~bureau~~ office, the *California* State Auditor may consult with
29 the Legislative Analyst, the Milton Marks “Little Hoover”
30 Commission on California State Government Organization and
31 Economy, the Office of Inspector General within the Department
32 of Corrections, the Department of Finance, and other state agencies
33 that have oversight responsibilities over any other agency of the
34 state, in identifying state agencies that are at high risk.

35 (c) The *California* State Auditor shall notify the Joint Legislative
36 Audit Committee whenever it identifies a state agency as at high
37 risk.

38 (d) The *California* State Auditor may issue audit reports with
39 recommendations for improvement in state agencies, and for

1 statewide issues, identified as at high risk not less than once every
2 two years.

3 (e) The *California* State Auditor may require state agencies
4 identified as high risk, or as responsible for all or a portion of a
5 statewide issue identified as high risk, to periodically report to the
6 auditor regarding the status of recommendations for improvement
7 made by the *California* State Auditor or other state oversight
8 agencies.

9 *SEC. 31. Section 8546.6 of the Government Code is amended*
10 *to read:*

11 8546.6. The *California* State Auditor, in connection with any
12 audit or investigation conducted pursuant to this chapter, shall be
13 deemed to be a department head for the purposes of Section 11189.

14 *SEC. 32. Section 8546.7 of the Government Code is amended*
15 *to read:*

16 8546.7. Notwithstanding any other provision of law, every
17 contract involving the expenditure of public funds in excess of ten
18 thousand dollars (\$10,000) entered into by any state agency, board,
19 commission, or department or by any other public entity, including
20 a city, county, city and county, or district, shall be subject to the
21 examination and audit of the *California* State Auditor, at the
22 request of the public entity or as part of any audit of the public
23 entity, for a period of three years after final payment under the
24 contract. Every contract shall contain a provision stating that the
25 contracting parties shall be subject to that examination and audit.
26 The failure of a contract to contain this provision shall not preclude
27 the *California* State Auditor from conducting an examination and
28 audit of the contract at the request of the public entity entering into
29 the contract or as part of any audit of the public entity.

30 It is the intent of the Legislature that the Regents of the
31 University of California include in contracts involving the
32 expenditure of state funds in excess of ten thousand dollars
33 (\$10,000) a provision stating that the contracting parties shall be
34 subject to the examination and audit of the *California* State
35 Auditor, at the request of the regents or as part of any audit of the
36 university, for a period of three years after final payment under
37 the contract.

38 The examinations and audits under this section shall be confined
39 to those matters connected with the performance of the contract,
40 including, but not limited to, the costs of administering the contract.

~~SEC. 17.~~

SEC. 33. Section 8546.8 of the Government Code is amended to read:

8546.8. Unless the contrary is stated or clearly appears from the context, any reference to the Auditor General or the Office of the Auditor General in any statute or contract in effect on the effective date of this chapter, other than Chapter 4 (commencing with Section 10500), with respect to the performance of audits, shall be construed to refer to the *California* State Auditor and the *California* State Auditor's Office, respectively.

~~SEC. 18.~~

SEC. 34. Section 8546.10 of the Government Code is amended to read:

8546.10. (a) The *California* State Auditor may establish a high-risk local government agency audit program for the purpose of identifying, auditing, and issuing reports on any local government agency, including, but not limited to, any city, county, special district, or any publicly created entity, whether created by the *California* Constitution or otherwise, that the *California* State Auditor identifies as being at high risk for the potential of waste, fraud, abuse, or mismanagement or that has major challenges associated with its economy, efficiency, or effectiveness.

(b) In addition to identifying a local government agency as high risk on the basis of weaknesses identified in audit and investigative reports produced by the office, the *California* State Auditor may consult with the Controller, Attorney General, and other state agencies that have oversight responsibilities over any local government agency, in identifying local governments that are at high risk.

(c) The *California* State Auditor's Office shall be responsible for the state costs associated with the high-risk local government agency audit program, shall conduct the program as funds permit, and shall only conduct the program to the extent that it does not interfere with duties related to mandated audits and requests from the Joint Legislative Audit Committee.

(d) (1) The *California* State Auditor shall notify the Joint Legislative Audit Committee whenever he or she identifies a local government as at high risk.

1 (2) The *California* State Auditor shall provide the Joint
2 Legislative Audit Committee, at a public hearing of the committee,
3 an annual update of all audits in progress.

4 (3) If a local government agency has taken significant corrective
5 measures for deficiencies identified by the *California* State Auditor,
6 that agency shall be removed from the high-risk local government
7 agency audit program.

8 (e) Notwithstanding the requirements of Section 10231.5, if the
9 *California* State Auditor establishes the program provided for in
10 this section and the *California* State Auditor determines that a
11 local agency is at high risk, the *California* State Auditor shall issue
12 audit reports at least once every two years with recommendations
13 for improvement in such a local government so identified.

14 (f) Audits conducted pursuant to this section shall be approved
15 by the Joint Legislative Audit Committee.

16 ~~SEC. 49.~~

17 *SEC. 35.* Section 8547.2 of the Government Code is amended
18 to read:

19 8547.2. For the purposes of this article, the following terms
20 have the following meanings:

21 (a) “Employee” means an individual appointed by the Governor,
22 or employed or holding office in a state agency as defined by
23 Section 11000, including, for purposes of Sections 8547.3 to
24 8547.7, inclusive, an employee of the California State University,
25 or an individual appointed by the Legislature to a state board or
26 commission and who is not a Member or employee of the
27 Legislature. In addition, “employee” means a person employed by
28 the Supreme Court, a court of appeal, a superior court, or the
29 Administrative Office of the Courts for the purposes of Sections
30 8547.3 to 8547.7, inclusive, and Section 8547.13, except for those
31 provisions of Section 8547.4 concerning notice of adverse action
32 and the State Personnel Board. “Employee” includes a former
33 employee who met the criteria of this subdivision during his or
34 her employment.

35 (b) “Illegal order” means a directive to violate or assist in
36 violating a federal, state, or local law, rule, or regulation, or an
37 order to work or cause others to work in conditions outside of their
38 line of duty that would unreasonably threaten the health or safety
39 of employees or the public.

(c) “Improper governmental activity” means an activity by a state agency or by an employee that is undertaken in the performance of the employee’s duties, undertaken inside a state office, or, if undertaken outside a state office by the employee, directly relates to state government, whether or not that activity is within the scope of his or her employment, and that (1) is in violation of any state or federal law or regulation, including, but not limited to, corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, (2) is in violation of an Executive order of the Governor, a California Rule of Court, or any policy or procedure mandated by the State Administrative Manual or State Contracting Manual, or (3) is economically wasteful, involves gross misconduct, incompetency, or inefficiency. For purposes of Sections 8547.4, 8547.5, 8547.7, 8547.10, and 8547.11, “improper governmental activity” includes any activity by the University of California or by an employee, including an officer or faculty member, who otherwise meets the criteria of this subdivision. For purposes of Sections 8547.4, 8547.5, and 8547.13, “improper governmental activity” includes any activity by the Supreme Court, a court of appeal, a superior court, or the Administrative Office of the Courts, or by an employee thereof, who otherwise meets the criteria of this subdivision.

(d) “Person” means an individual, corporation, trust, association, a state or local government, or an agency or instrumentality of any of the foregoing.

(e) “Protected disclosure” means a good faith communication, including a communication based on, or when carrying out, job duties, that discloses or demonstrates an intention to disclose information that may evidence (1) an improper governmental activity, or (2) a condition that may significantly threaten the health or safety of employees or the public if the disclosure or intention to disclose was made for the purpose of remedying that condition. Protected disclosure specifically includes a good faith communication to the *California* State Auditor’s Office alleging an improper governmental activity and any evidence delivered to the *California* State Auditor’s Office in support of the allegation. “Protected disclosure” also includes, but is not limited to, a complaint made to the Commission on Judicial Performance.

(f) “State agency” is defined by Section 11000. “State agency” includes the University of California for purposes of Sections 8547.5 to 8547.7, inclusive, and the California State University for purposes of Sections 8547.3 to 8547.7, inclusive. Sections 8547.3 to 8547.7, inclusive, shall apply to the Supreme Court, the courts of appeal, the superior courts, and the Administrative Office of the Courts in the same manner as they apply to a state agency.

~~SEC. 20:~~

SEC. 36. Section 8548.4 of the Government Code is amended to read:

8548.4. The *California* State Auditor shall post the information described in Section 8548.1 on the Internet Web site of the *California* State Auditor’s Office.

~~SEC. 21:~~

SEC. 37. Section 54954.5 of the Government Code is amended to read:

54954.5. For purposes of describing closed session items pursuant to Section 54954.2, the agenda may describe closed sessions as provided below. No legislative body or elected official shall be in violation of Section 54954.2 or 54956 if the closed session items were described in substantial compliance with this section. Substantial compliance is satisfied by including the information provided below, irrespective of its format.

(a) With respect to a closed session held pursuant to Section 54956.7:

LICENSE/PERMIT DETERMINATION

Applicant(s): (Specify number of applicants)

(b) With respect to every item of business to be discussed in closed session pursuant to Section 54956.8:

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

Agency negotiator: (Specify names of negotiators attending the closed session) (If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Negotiating parties: (Specify name of party (not agent))

1 Under negotiation: (Specify whether instruction to negotiator
2 will concern price, terms of payment, or both)

3 (c) With respect to every item of business to be discussed in
4 closed session pursuant to Section 54956.9:

5 CONFERENCE WITH LEGAL COUNSEL—EXISTING
6 LITIGATION

7 (Subdivision (a) of Section 54956.9)

8 Name of case: (Specify by reference to claimant's name, names
9 of parties, case or claim numbers)

10 or

11 Case name unspecified: (Specify whether disclosure would
12 jeopardize service of process or existing settlement negotiations)

13 CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED
14 LITIGATION

15 Significant exposure to litigation pursuant to subdivision (b) of
16 Section 54956.9: (Specify number of potential cases)

17 (In addition to the information noticed above, the agency may
18 be required to provide additional information on the agenda or in
19 an oral statement prior to the closed session pursuant to
20 subparagraphs (B) to (E), inclusive, of paragraph (3) of subdivision
21 (b) of Section 54956.9.)

22 Initiation of litigation pursuant to subdivision (c) of Section
23 54956.9: (Specify number of potential cases)

24 (d) With respect to every item of business to be discussed in
25 closed session pursuant to Section 54956.95:

26 LIABILITY CLAIMS

27 Claimant: (Specify name unless unspecified pursuant to Section
28 54961)

29 Agency claimed against: (Specify name)

30 (e) With respect to every item of business to be discussed in
31 closed session pursuant to Section 54957:

32 THREAT TO PUBLIC SERVICES OR FACILITIES

33 Consultation with: (Specify name of law enforcement agency
34 and title of officer, or name of applicable agency representative
35 and title)

36 PUBLIC EMPLOYEE APPOINTMENT

37 Title: (Specify description of position to be filled)

38 PUBLIC EMPLOYMENT

39 Title: (Specify description of position to be filled)

40 PUBLIC EMPLOYEE PERFORMANCE EVALUATION

1 Title: (Specify position title of employee being reviewed)

2 PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

3 (No additional information is required in connection with a
4 closed session to consider discipline, dismissal, or release of a
5 public employee. Discipline includes potential reduction of
6 compensation.)

7 (f) With respect to every item of business to be discussed in
8 closed session pursuant to Section 54957.6:

9 CONFERENCE WITH LABOR NEGOTIATORS

10 Agency designated representatives: (Specify names of designated
11 representatives attending the closed session) (If circumstances
12 necessitate the absence of a specified designated representative,
13 an agent or designee may participate in place of the absent
14 representative so long as the name of the agent or designee is
15 announced at an open session held prior to the closed session.)

16 Employee organization: (Specify name of organization
17 representing employee or employees in question)

18 or

19 Unrepresented employee: (Specify position title of unrepresented
20 employee who is the subject of the negotiations)

21 (g) With respect to closed sessions called pursuant to Section
22 54957.8:

23 CASE REVIEW/PLANNING

24 (No additional information is required in connection with a
25 closed session to consider case review or planning.)

26 (h) With respect to every item of business to be discussed in
27 closed session pursuant to Sections 1461, 32106, and 32155 of the
28 Health and Safety Code or Sections 37606 and 37624.3 of the
29 Government Code:

30 REPORT INVOLVING TRADE SECRET

31 Discussion will concern: (Specify whether discussion will
32 concern proposed new service, program, or facility)

33 Estimated date of public disclosure: (Specify month and year)

34 HEARINGS

35 Subject matter: (Specify whether testimony/deliberation will
36 concern staff privileges, report of medical audit committee, or
37 report of quality assurance committee)

38 (i) With respect to every item of business to be discussed in
39 closed session pursuant to Section 54956.86:

1 CHARGE OR COMPLAINT INVOLVING INFORMATION
2 PROTECTED BY FEDERAL LAW

3 (No additional information is required in connection with a
4 closed session to discuss a charge or complaint pursuant to Section
5 54956.86.)

6 (j) With respect to every item of business to be discussed in
7 closed session pursuant to Section 54956.96:

8 CONFERENCE INVOLVING A JOINT POWERS AGENCY
9 (Specify by name)

10 Discussion will concern: (Specify closed session description
11 used by the joint powers agency)

12 Name of local agency representative on joint powers agency
13 board: (Specify name)

14 (Additional information listing the names of agencies or titles
15 of representatives attending the closed session as consultants or
16 other representatives.)

17 (k) With respect to every item of business to be discussed in
18 closed session pursuant to Section 54956.75:

19 AUDIT BY CALIFORNIA STATE AUDITOR'S OFFICE

20 ~~SEC. 22.~~

21 *SEC. 38.* Section 130506 of the Health and Safety Code is
22 amended to read:

23 130506. (a) The department shall negotiate drug discount
24 agreements with manufacturers to provide discounts for
25 single-source and multiple-source prescription drugs through the
26 program. The department shall attempt to negotiate the maximum
27 possible discount for an eligible Californian. The department shall
28 attempt to negotiate, with each manufacturer, discounts to offer
29 single-source prescription drugs under the program at a volume
30 weighted average discount that is equal to or below any one of the
31 following benchmark prices:

32 (1) Eighty-five percent of the average manufacturer price for a
33 drug, as published by the federal Centers for Medicare and
34 Medicaid Services.

35 (2) The lowest price provided to any nonpublic entity in the
36 state by a manufacturer to the extent that the Medicaid best price
37 exists under federal law.

38 (3) The Medicaid best price, to the extent that this price exists
39 under federal law.

1 (b) The department may require the drug manufacturer to
2 provide information that is reasonably necessary for the department
3 to carry out its duties pursuant to this division.

4 (c) The department shall pursue manufacturer discount
5 agreements to ensure that the number and type of drugs available
6 through the program is sufficient to give an eligible Californian a
7 formulary comparable to the Medi-Cal list of contract drugs, or if
8 this information is available to the department, a formulary that is
9 comparable to that provided to CalPERS enrollees.

10 (d) To obtain the most favorable discounts, the department may
11 limit the number of drugs available through the program.

12 (e) The drug discount agreements negotiated pursuant to this
13 section shall be used to reduce the cost of drugs purchased by
14 program participants and to fund program costs pursuant to Section
15 130542.1.

16 (f) All information reported by a manufacturer to, negotiations
17 with, and agreements executed with, the department or its
18 third-party vendor pursuant to this section, shall be considered
19 confidential and corporate proprietary information. This
20 information shall not be subject to disclosure under the California
21 Public Records Act (Chapter 3.5 (commencing with Section 6250)
22 of Division 7 of Title 1 of the Government Code). The *California*
23 State Auditor's Office and the Controller shall have access to
24 pricing information in a manner that is consistent with their access
25 to this information under the Medi-Cal program and under law.
26 The *California* State Auditor's Office and the Controller may use
27 this information only to investigate or audit the administration of
28 the program. Neither the *California* State Auditor's Office, the
29 Controller, nor the department may disclose this information in a
30 form that identifies a specific manufacturer or wholesaler or prices
31 charged for drugs of this manufacturer or wholesaler. Information
32 provided to the department pursuant to subdivision (e) of Section
33 130530 shall not be affected by the confidentiality protections
34 established by this subdivision.

35 (g) (1) Any pharmacy licensed pursuant to Chapter 9
36 (commencing with Section 4000) of Division 2 of the Business
37 and Professions Code may participate in the program.

38 (2) Any manufacturer may participate in the program.

1 ~~SEC. 23.~~

2 *SEC. 39.* Section 1872.83 of the Insurance Code is amended
3 to read:

4 1872.83. (a) The commissioner shall ensure that the Fraud
5 Division aggressively pursues all reported incidents of probable
6 workers' compensation fraud, as defined in Sections 11760 and
7 11880, and in subdivision (a) of Section 1871.4, and in Section
8 549 of the Penal Code, and forwards to the appropriate disciplinary
9 body the names, along with all supporting evidence, of any
10 individuals licensed under the Business and Professions Code who
11 are suspected of actively engaging in fraudulent activity. The Fraud
12 Division shall forward to the Insurance Commissioner or the
13 Director of Industrial Relations, as appropriate, the name, along
14 with all supporting evidence, of any insurer, as defined in
15 subdivision (c) of Section 1877.1, suspected of actively engaging
16 in the fraudulent denial of claims.

17 (b) To fund increased investigation and prosecution of workers'
18 compensation fraud, and of willful failure to secure payment of
19 workers' compensation, in violation of Section 3700.5 of the Labor
20 Code, there shall be an annual assessment as follows:

21 (1) The aggregate amount of the assessment shall be determined
22 by the Fraud Assessment Commission, which is hereby established.
23 The commission shall be composed of seven members consisting
24 of two representatives of organized labor, two representatives of
25 self-insured employers, one representative of insured employers,
26 one representative of workers' compensation insurers, and the
27 President of the State Compensation Insurance Fund, or his or her
28 designee.

29 The Governor shall appoint members representing organized
30 labor, self-insured employers, insured employers, and insurers.
31 The term of office of members of the commission shall be four
32 years, and a member shall hold office until the appointment of a
33 successor. The President of the State Compensation Insurance
34 Fund shall be an ex officio, voting member of the commission.
35 Members of the commission shall receive one hundred dollars
36 (\$100) for each day of actual attendance at commission meetings
37 and other official commission business, and shall also receive their
38 actual and necessary traveling expenses incurred in the performance
39 of commission duties. Payment of per diem and travel expenses
40 shall be made from the Workers' Compensation Fraud Account

1 in the Insurance Fund, established in paragraph (4), upon
2 appropriation by the Legislature.

3 (2) In determining the aggregate amount of the assessment, the
4 Fraud Assessment Commission shall consider the advice and
5 recommendations of the Fraud Division and the commissioner.

6 (3) The aggregate amount of the assessment shall be collected
7 by the Director of Industrial Relations pursuant to Section 62.6 of
8 the Labor Code. The Fraud Assessment Commission shall annually
9 advise the Director of Industrial Relations, not later than March
10 15, of the aggregate amount to be assessed for the next fiscal year.

11 (4) The amount collected, together with the fines collected for
12 violations of the unlawful acts specified in Sections 1871.4, 11760,
13 and 11880, Section 3700.5 of the Labor Code, and Section 549 of
14 the Penal Code, shall be deposited in the Workers' Compensation
15 Fraud Account in the Insurance Fund, which is hereby created,
16 and may be used, upon appropriation by the Legislature, only for
17 enhanced investigation and prosecution of workers' compensation
18 fraud and of willful failure to secure payment of workers'
19 compensation as provided in this section.

20 (c) For each fiscal year, the total amount of revenues derived
21 from the assessment pursuant to subdivision (b) shall, together
22 with amounts collected pursuant to fines imposed for unlawful
23 acts described in Sections 1871.4, 11760, and 11880, Section
24 3700.5 of the Labor Code, and Section 549 of the Penal Code, not
25 be less than three million dollars (\$3,000,000). Any funds
26 appropriated by the Legislature pursuant to subdivision (b) that
27 are not expended in the fiscal year for which they have been
28 appropriated, and that have not been allocated under subdivision
29 (f), shall be applied to satisfy for the immediately following fiscal
30 year the minimum total amount required by this subdivision. In
31 no case may that money be transferred to the General Fund.

32 (d) After incidental expenses, at least 40 percent of the funds
33 to be used for the purposes of this section shall be provided to the
34 Fraud Division of the Department of Insurance for enhanced
35 investigative efforts, and at least 40 percent of the funds shall be
36 distributed to district attorneys, pursuant to a determination by the
37 commissioner with the advice and consent of the division and the
38 Fraud Assessment Commission, as to the most effective distribution
39 of moneys for purposes of the investigation and prosecution of
40 workers' compensation fraud cases and cases relating to the willful

1 failure to secure the payment of workers' compensation. Each
2 district attorney seeking a portion of the funds shall submit to the
3 commissioner an application setting forth in detail the proposed
4 use of any funds provided. A district attorney receiving funds
5 pursuant to this subdivision shall submit an annual report to the
6 commissioner with respect to the success of his or her efforts.
7 Upon receipt, the commissioner shall provide copies to the Fraud
8 Division and the Fraud Assessment Commission of any application,
9 annual report, or other documents with respect to the allocation of
10 money pursuant to this subdivision. Both the application for
11 moneys and the distribution of moneys shall be public documents.
12 Information submitted to the commissioner pursuant to this section
13 concerning criminal investigations, whether active or inactive,
14 shall be confidential.

15 (e) If a district attorney is determined by the commissioner to
16 be unable or unwilling to investigate and prosecute workers'
17 compensation fraud claims or claims relating to the willful failure
18 to secure the payment of workers' compensation, the commissioner
19 shall discontinue distribution of funds allocated for that county
20 and may redistribute those funds according to this subdivision.

21 (1) The commissioner shall promptly determine whether any
22 other county could assert jurisdiction to prosecute the fraud claims
23 or claims relating to the willful failure to secure the payment of
24 workers' compensation that would have been brought in the
25 nonparticipating county, and if so, the commissioner may award
26 funds to conduct the prosecutions redirected pursuant to this
27 subdivision. These funds may be in addition to any other fraud
28 prosecution funds or claims relating to the willful failure to secure
29 the payment of workers' compensation prosecution otherwise
30 awarded under this section. Any district attorney receiving funds
31 pursuant to this subdivision shall first agree that the funds shall be
32 used solely for investigating and prosecuting those cases of
33 workers' compensation fraud or claims relating to the willful failure
34 to secure the payment of workers' compensation that are redirected
35 pursuant to this subdivision and submit an annual report to the
36 commissioner with respect to the success of the district attorney's
37 efforts. The commissioner shall keep the Fraud Assessment
38 Commission fully informed of all reallocations of funds under this
39 paragraph.

(2) If the commissioner determines that no district attorney is willing or able to investigate and prosecute the workers' compensation fraud claims or claims relating to the willful failure to secure the payment of workers' compensation arising in the nonparticipating county, the commissioner, with the advice and consent of the Fraud Assessment Commission, may award to the Attorney General some or all of the funds previously awarded to the nonparticipating county. Before the commissioner may award any funds, the Attorney General shall submit to the commissioner an application setting forth in detail his or her proposed use of any funds provided and agreeing that any funds awarded shall be used solely for investigating and prosecuting those cases of workers' compensation fraud or claims relating to the willful failure to secure the payment of workers' compensation that are redirected pursuant to this subdivision. The Attorney General shall submit an annual report to the commissioner with respect to the success of the fraud prosecution efforts of his or her office.

(3) Neither the Attorney General nor any district attorney shall be required to relinquish control of any investigation or prosecution undertaken pursuant to this subdivision unless the commissioner determines that satisfactory progress is no longer being made on the case or the case has been abandoned.

(4) A county that has become a nonparticipating county due to the inability or unwillingness of its district attorney to investigate and prosecute workers' compensation fraud or the willful failure to secure the payment of workers' compensation shall not become eligible to receive funding under this section until it has submitted a new application that meets the requirements of subdivision (d) and the applicable regulations.

(f) If in any fiscal year the Fraud Division does not use all of the funds made available to it under subdivision (d), any remaining funds may be distributed to district attorneys pursuant to a determination by the commissioner in accordance with the same procedures set forth in subdivision (d).

(g) The commissioner shall adopt rules and regulations to implement this section in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Included in the rules and regulations shall be the criteria for redistributing funds to district attorneys

1 and the Attorney General. The adoption of the rules and regulations
2 shall be deemed to be an emergency and necessary for the
3 immediate preservation of the public peace, health, and safety, or
4 general welfare.

5 (h) The department shall report to the Governor, the Legislature,
6 to the committees of the Senate and Assembly having jurisdiction
7 over insurance, and the Fraud Assessment Commission on the
8 activities of the Fraud Division and district attorneys supported
9 by the funds provided by this section in the annual report submitted
10 pursuant to Section 12922.

11 The annual report shall include, but is not limited to, all of the
12 following information for the department and each district
13 attorney's office:

14 (1) All allocations, distributions, and expenditures of funds.

15 (2) The number of search warrants issued.

16 (3) The number of arrests and prosecutions, and the aggregate
17 number of parties involved in each.

18 (4) The number of convictions and the names of all convicted
19 fraud perpetrators.

20 (5) The estimated value of all assets frozen, penalties assessed,
21 and restitutions made for each conviction.

22 (6) Any additional items necessary to fully inform the Fraud
23 Assessment Commission and the Legislature of the fraud-fighting
24 efforts financed through this section.

25 (i) In order to meet the requirements of subdivision (g), the
26 department shall submit a biannual information request to those
27 district attorneys who have applied for and received funding
28 through the annual assessment process under this section.

29 (j) Assessments levied or collected to fight workers'
30 compensation fraud and insurance fraud are not taxes. Those funds
31 are entrusted to the state to fight fraud and the willful failure to
32 secure the payment of workers' compensation by funding state
33 and local investigation and prosecution efforts. Accordingly, any
34 funds resulting from assessments, fees, penalties, fines, restitution,
35 or recovery of costs of investigation and prosecution deposited in
36 the Insurance Fund shall not be deemed "unexpended" funds for
37 any purpose and, if remaining in that account at the end of any
38 fiscal year, shall be applied as provided in subdivision (f) and to
39 offset or augment subsequent years' program funding.

(k) The *California* State Auditor's Office shall evaluate the effectiveness of the efforts of the Fraud Assessment Commission, the Fraud Division, the Department of Insurance, and the Department of Industrial Relations, as well as local law enforcement agencies, including district attorneys, in identifying, investigating, and prosecuting workers' compensation fraud and the willful failure to secure payment of workers' compensation. The report shall specifically identify areas of deficiencies. Included in this report shall be recommendations on whether the current program provides the appropriate levels of accountability for those responsible for the allocation and expenditure of funds raised from the assessment provided in this section. The *California* State Auditor's Office shall submit a report to the Chairperson of the Senate Committee on Labor and Industrial Relations and the Chairperson of the Assembly Committee on Insurance on or before May 1, 2004.

~~SEC. 24.~~

SEC. 40. Section 5024 of the Penal Code is amended to read:

5024. (a) The Legislature finds and declares that:

(1) State costs for purchasing drugs and medical supplies for the health care of offenders in state custody have grown rapidly in recent years and will amount to almost seventy-five million dollars (\$75,000,000) annually in the 1999–2000 fiscal year.

(2) The *California* State Auditor's Office found in a January 2000 audit report that the state could save millions of dollars annually by improving its current processes for the procurement of drugs for inmate health care and by pursuing alternative procurement methods.

(3) It is the intent of the Legislature that the Department of Corrections and Rehabilitation, in cooperation with the Department of General Services and other appropriate state agencies, take prompt action to adopt cost-effective reforms in its drug and medical supply procurement processes by establishing a program to obtain rebates from drug manufacturers, implementing alternative contracting and procurement reforms, or by some combination of these steps.

(b) (1) The Secretary of the Department of Corrections and Rehabilitation, pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) may adopt

regulations requiring manufacturers of drugs to pay the department a rebate for the purchase of drugs for offenders in state custody that is at least equal to the rebate that would be applicable to the drug under Section 1927(c) of the federal Social Security Act (42 U.S.C. Sec. 1396r-8(c)). Any such regulation shall, at a minimum, specify the procedures for notifying drug manufacturers of the rebate requirements and for collecting rebate payments.

(2) If a rebate program is implemented, the director shall develop, maintain, and update as necessary a list of drugs to be provided under the rebate program, and establish a rate structure for reimbursement of each drug included in the rebate program. Rates shall not be less than the actual cost of the drug. However, the director may purchase a listed drug directly from the manufacturer and negotiate the most favorable bulk price for that drug. In order to minimize state administrative costs and maximize state benefits for the rebate program, the director may establish a program that focuses upon obtaining rebates for those drugs that it determines are purchased by the department in relatively large volumes.

(3) If a rebate program is implemented, the department shall submit an invoice, not less than two times per year, to each manufacturer for the amount of the rebate required by this subdivision. Drugs may be removed from the list for failure to pay the rebate required by this subdivision, unless the department determines that purchase of the drug is a medical necessity or that purchase of the drug is necessary to comply with a court order to ensure the appropriate provision of quality health care to offenders in state custody.

(4) In order to minimize state administrative costs and maximize state benefits for such a rebate program, if one is implemented, the Department of Corrections and Rehabilitation may enter into interagency agreements with the Department of General Services, the State Department of Health *Care* Services, the State Department of Mental Health, or the State Department of Developmental Services, the University of California, another appropriate state department, or with more than one of those entities, for joint participation in a rebate program, collection and monitoring of necessary drug price and rebate data, the billing of manufacturers for rebates, the resolution of any disputes over rebates, and any

1 other services necessary for the cost-effective operation of the
2 rebate program.

3 (5) The Department of Corrections and Rehabilitation, separately
4 or in cooperation with other state agencies, may contract for the
5 services of a pharmaceutical benefits manager for any services
6 necessary for the cost-effective operation of the rebate program,
7 if one is implemented, or for other services to improve the
8 contracting and procurement of drugs and medical supplies for
9 inmate health care.

10 (c) Nothing in this section shall prohibit the department, as an
11 alternative to or in addition to establishing a rebate program for
12 drugs for inmate health care, from implementing, in cooperation
13 with the Department of General Services and other appropriate
14 state agencies, other cost-effective strategies for procurement of
15 drugs and medical supplies for offenders in state custody,
16 including, but not limited to:

17 (1) Improvements in the existing statewide master agreement
18 procedures for purchasing contract and noncontract drugs at a
19 discount from drug manufacturers.

20 (2) Participation by offenders in state custody infected with
21 human immunodeficiency virus (HIV), the etiologic agent of
22 acquired immune deficiency syndrome (AIDS), in the AIDS Drug
23 Assistance Program.

24 (3) Membership in the Minnesota Multistate Contracting
25 Alliance for Pharmacy (MMCAP) or other cooperative purchasing
26 arrangements with other governmental entities.

27 (4) Greater centralization or standardization of procurement of
28 drugs and medical supplies among individual prisons in the
29 Department of Corrections and Rehabilitation prison system.

30 (d) The *California* State Auditor's Office shall report to the
31 Legislature and the Governor by January 10, 2002, its findings in
32 regard to:

33 (1) An evaluation of the trends in state costs for the procurement
34 of drugs and medical supplies for offenders in state custody, and
35 an assessment of the major factors affecting those trends.

36 (2) A summary of the steps taken by the Department of
37 Corrections and Rehabilitation, the Department of General
38 Services, and other appropriate state agencies to implement this
39 section.

(3) An evaluation of the compliance by these state agencies with the findings and recommendations of the January 2000 ~~Bureau of State Audits~~ *California State Auditor's Office* report for reform of procurement of drugs and medical supplies for offenders in state custody.

(4) Any further recommendations of the *California State Auditor's Office* for reform of state drug procurement practices, policies, or statutes.

~~SEC. 25.~~

SEC. 41. Section 71560 of the Public Resources Code is amended to read:

71560. (a) The endowment may receive charitable contributions or any sources of income that may be lawfully received, including loans from the state.

(b) The endowment shall administer any funds it receives in accordance with this division.

(c) (1) Except as provided in paragraph (2), the endowment shall invest and manage any funds it receives so that the investments shall provide a source of income in perpetuity and the principal amount consisting of charitable contributions and donations, including cost savings donated pursuant to Section 6618 of the Fish and Game Code, shall not be spent. Any returns on investments made by the endowment are the only funds that shall be available for expenditure by the endowment.

(2) Ten percent of any funds received by the endowment pursuant to Section 6618 of the Fish and Game Code in a calendar year shall be allocated by the endowment board, pursuant to Section 71552, as grants for projects or programs consistent with the purpose of this chapter within 24 months of receipt of the funds. The majority of these funds shall be granted to state agencies engaged in coastal and ocean protection.

(d) The endowment shall invest and manage any funds it receives in accordance with the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code).

(e) The accounts of the endowment shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants.

(f) The financial transactions of the endowment for any fiscal year may be audited by the *California State Auditor's Office*.

(g) Each recipient of assistance by grant, contract, or loan pursuant to this division shall keep records reasonably necessary to disclose fully the amount of the assistance, the disposition of the assistance, the total cost of the project or undertaking in connection with which the assistance is given or used, the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and other records that will facilitate an effective audit. Each recipient of a fixed price contract awarded pursuant to competitive bidding procedures is exempt from this subdivision.

(h) The endowment, or its authorized representative, and the *California* State Auditor's Office shall have access to any records necessary for the purpose of auditing and examining all funds received or expended by the recipients of assistance.

~~SEC. 26.~~

SEC. 42. Section 421 of the Public Utilities Code is amended to read:

421. (a) The commission shall annually determine a fee to be paid by every passenger stage corporation, charter-party carrier of passengers, pipeline corporation, for-hire vessel operator, common carrier vessel operator, railroad corporation, and commercial air operator, and every other common carrier and related business subject to the jurisdiction of the commission, except as otherwise provided in Article 3 (commencing with Section 431) of this chapter and Chapter 6 (commencing with Section 5001) of Division 2.

(b) The annual fee shall be established to produce a total amount equal to the amount established in the authorized commission budget for the same year, including adjustments appropriated by the Legislature and an appropriate reserve, to regulate common carriers and related businesses, less the amount to be paid from special accounts or funds pursuant to Section 403, reimbursements, federal funds, other revenues, and unencumbered funds from the preceding year.

(c) Notwithstanding any other provision of law, the fees paid by railroad corporations shall be used for state-funded railroad investigation and enforcement activities of the commission, other than the rail safety activities funded by the Transportation Planning and Development Account pursuant to Section 99315. The railroad fees shall be set annually at a level which generates not less than

the amount sufficient to fund activities pursuant to Sections 765.5, 7711, and 7712.

(d) On January 1, 1992, the commission shall submit to the Legislature a detailed budget implementing this section for the 1992–93 fiscal year. The commission shall also submit to the Legislature by January 1, 1993, and on each January 1 thereafter, a detailed budget for expenditure of railroad corporation fees for the ensuing budget year. The budget for expenditure of railroad corporation fees, for each of the 1996–97 and 1997–98 fiscal years, shall not exceed the amount of three million dollars (\$3,000,000).

Expenditures of this budget shall be limited to the following items:

(1) Expenditures for employees occupying, and actually performing service in, railroad-safety personnel positions that are directly involved in inspecting railroads and enforcing rail safety regulations. The commission shall expend the funds budgeted pursuant to this subdivision for the salaries, per diem, and travel expenses of employees specified in this paragraph, unless, by statute, the commission is specifically prohibited from expending all or part of those funds.

(2) Expenditures for employees occupying, and actually performing service in, clerical and support staff positions that are directly associated with railroad-safety inspections.

(3) Expenditures for legal personnel who actually pursue violations of rail safety regulations beyond the informal complaint level.

(4) Expenditures for an audit by the *California* State Auditor’s Office pursuant to subdivision (f), not to exceed seventy-five thousand dollars (\$75,000).

(5) Expenditures for the pro rata share of the commission’s overhead costs while state personnel are actually occupying the positions, and are performing the duties specified in paragraphs (1) to (4), inclusive.

(e) The Department of Finance shall notify the Joint Legislative Budget Committee, pursuant to Section 28.00 of the annual Budget Act, prior to authorizing any change in the Budget Act appropriation for railroad corporation fees that is larger than one hundred thousand dollars (\$100,000), or 10 percent of the amount budgeted, whichever is less.

(f) Except as otherwise provided in this subdivision, commencing with the 1993–94 fiscal year, and in each subsequent

1 fiscal year until the 1999–2000 fiscal year, the commission shall
2 conduct an audit of the expenditure of the funds received pursuant
3 to this section, except that for the 1996–97 fiscal year and fiscal
4 years thereafter the audit shall be conducted by the *California* State
5 Auditor’s Office. The results of this audit shall be reported, in
6 writing, commencing on or before February 15, 1995, with respect
7 to the audit for the 1993–94 fiscal year, and on or before January
8 15 of each year thereafter, with respect to the audit for the fiscal
9 year ending on the previous June 30, to the appropriate policy and
10 budget committees of the respective houses of the Legislature. The
11 commission shall reimburse the *California* State Auditor’s Office
12 for the costs of the audits beginning with the 1996–97 fiscal year.

13 (g) On or before January 1, 1994, the commission shall hire a
14 minimum of four additional operating practices inspectors,
15 exclusive of supervisory personnel, who are, or shall become by
16 July 1, 1994, federally certified, for the purpose of enforcing
17 compliance by railroads operating in this state with state and federal
18 safety regulations.

19 (h) The commission, in performing its duties, shall limit the
20 expenditure of funds for rail safety division purposes to those
21 railroad corporation fees collected pursuant to subdivision (d). In
22 no event, shall the commission fund railroad safety activities
23 utilizing funds from other commission accounts unrelated to
24 railroad safety.

25 ~~SEC. 27.~~

26 *SEC. 43.* Section 80270 of the Water Code is amended to read:

27 80270. The *California* State Auditor’s Office shall conduct a
28 financial and performance audit of the department’s
29 implementation of this division. The audit shall be completed
30 before December 31, 2001. The office shall issue a final report on
31 or before March 31, 2003.

32 ~~SEC. 28.~~

33 *SEC. 44.* No existing supplies, forms, insignias, signs, or logos
34 shall be destroyed or changed as a result of changing the name of
35 the Bureau of State Audits to the *California* State Auditor’s Office
36 *or the name of the State Auditor to the California State Auditor,*
37 and those materials shall continue to be used until exhausted or
38 unserviceable.